SUMMARY OF CLAIMS

Claims 1, 3, 7-10, 14-15, 17-20, 22-27, 29-31, 38 and 41-42 are pending. Claims 2, 16 and 28 are canceled. Claims 4-6, 11-13, 21, 32-37, 39-40 and 43 are withdrawn.

REMARKS

I. Interview Summary

Applicants wish to thank the Examiner and John Brusca for courtesies extended during a telephonic interview held on August 31, 2005 with Applicants representatives, Vern Norviel and Maya Skubatch, inventor Dr. Jonathan Heller and Dr. Svetlana Shtrom. During the interview, the obviousness rejection in the Final Office Action communicated June 15, 2005 was discussed. Also, the Examiner and Applicants discussed potential ambiguity in step (e). Reconsideration is respectfully requested in light of the following remarks.

II. Rejections Under 35 U.S.C. §103(a)

Claims 1, 3, 7-10, 14, 15, 17-20, 22-27, 29-31, 38, 41, and 42 were rejected under 35 U.S.C. 103(a) as being unpatentable over Olek et al. in view of Fouillet et al. and with reference to Chambers et al.

Applicants respectfully traverse the above rejection as none of the above references (independently or in combination) teach or suggest all of claimed limitations. For example, none of the above references teach or suggest the limitation of "marketing diagnostic products that use said *representative patterns*," (Claim 1, emphasis added) wherein the "representative patterns" include 15 markers of unknown specific identity. The term "specific identity" is used throughout the specification and in the claims in its ordinary meaning. A specific identity of a protein would include, for example, amino acid sequence or its function. (See, e.g., Chamber et al. at 283, stating that "protein identification will only be successful if the protein being analysed [*sic*] is represented in the databases. For proteins which have incomplete sequence information, it is necessary to obtain sequence information . . .")

Unlike the claimed invention, the first reference cited by the Examiner, Olek et al. describes "a method for generating a gene panel combining only the advantages of the presently known expression analysis techniques." [Olek et al., Paragraph 61] Such "gene panel" is defined as "a knowledge base, listing, table or other information source, that

contains information about selected genes. . . ." [Olek et al., Paragraph 0089] Information about the genes can include, for example, sequence data. *Id.* Therefore, such genes have a *specific identity*, and as their sequence is known, their protein sequence will be known as well. Moreover, Example 1 in Olek et al. merely discloses analyzing the expression level of a set of proteins using a mass spectrometer and comparing the mass spectra datasets to a protein database of the known/*specifically identified* protein. Thus, Olek et al fails to disclose all of the claimed limitations of independent claim 1, including the step of "marketing diagnostic products that use said *representative patterns* [which include 15 markers of *unknown specific identity*] wherein said diagnostic products are marketed with a disposable microfluidics device."

The second reference cited by the Examiner, Fouillet et al., also fails to disclose or suggest all of the claimed limitations of independent claim 1 (even when viewed in light of Olek et al.). In fact, Fouillet et al. discloses that proteomics "involves the separation, *identification, and characterization* of proteins present in a biological sample." [Fouillet et al, Paragraph 454] Moreover, according to Fouillet et al. "by comparison of disease and control samples, it is possible to *identify* 'disease specific proteins.'" [Fouillet et al, Paragraph 351] The presently claimed invention, unlike Fouillet, does *not identify* proteins but rather utilizes markers of *unknown* specific identity to market a diagnostic product. Moreover, the presently claimed invention, unlike Fouillet, does *not characterize* the unknown markers or proteins. Thus, Fouillet et al., like Olek et al., fails to teach or suggest all of the claimed limitations of independent claim 1, including the step of "marketing diagnostic products that use said representative patterns [which include 15 markers of *unknown specific identity*] wherein said diagnostic products are marketed with a disposable microfluidics device."

Finally, while the obviousness rejection is not based on Chambers et al., Applicants address this reference as well. Chambers et al. discloses,

> "tools [that] try to 'fit' a user's mass spectrometry data to a protein sequence in an *existing* database and thus suggest the *identity* of the protein. This form of protein *identification* will only be successful if the protein being analysed [*sic.*] is represented in the databases."

Thus, all Chambers et al. discloses is identifying *known proteins*. Nowhere does Chambers et al. disclose or suggest the step of "marketing diagnostic products that use said

representative patterns [which include 15 markers of *unknown specific identity*] wherein said diagnostic products are marketed with a disposable microfluidics device."

As Olek et al., Fouillet et al., and Chambers et al., independently or in combination with one another fail to disclose or suggest all of the claimed limitations, Applicants respectfully request that the above rejection be withdrawn.

CONCLUSION

Applicants submit that the instant application is in condition for allowance and earnestly and respectfully request allowance of the now pending claims under examination. Should the Examiner have any questions, the Examiner is invited and encouraged to contact the undersigned attorney at the direct number provided.

The Commissioner is authorized to charge any fees that may be required in connection with this submission, including petition fees and extension of time fees, and to credit any overpayments to Deposit Account No. 23-2415 (Attorney Docket No. 29191-707.201).

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